

**James Madison to James Monroe, May 18, 1822.
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TO JAMES MONROE. MAD. MSS.

Montpellier, May 18, 1822.

Dear Sir, I am just favored with yours of the 12th, in which you ask whether I recollect any case of a "nomination of an officer of the Army to a particular office, to take rank from a certain date in which the Senate have interposed to give rank from another date?" and again, whether I recollect "any instances of filling original vacancies, in civil or military Offices in the recess of the Senate, where authority was not given by law?"

On the first point I have no particular recollection, but it is possible that there may have been cases such as you mention.¹ The journals of the Senate will of course present them if they ever existed. Be the fact as it may, it would seem that such an interposition of the Senate, would be a departure from the naked authority to decide on nominations of the Executive. The tenure of the officer, in the interval been the two dates, where that of the Senate was the prior one would be altogether of the Senate's creation; or if understood to be made valid by the Commission of the President, would make the appointment *originate* with the Senate, not with the President; nor would a posteriority of the date of the Senate, possibly be without some indirect operation beyond the competency of that Body.

¹ This letter was shown to John Quincy Adams by Monroe and the part relating to appointments was read to the Cabinet.— *Adams's Diary*, v., 539; vi., 25.

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On the second point, although my memory cannot refer to any particular

appointments to original vacancies in the recess of the Senate, I am confident that such have taken place under a pressure of circumstances, where no legal provision had authorized them. There have been cases where offices were created by Congress, and appointments to them made with the sanction of the Senate, which were notwithstanding found to be vacant in consequence of refusals to accept them, or of unknown death of the party at the time of the appointment, and thence filled by the President alone. I have a faint impression that instances of one or both occurred within the Mississippi Territory. These however were cases of necessity. Whether others not having that basis have occurred my present recollections do not enable me to say.

In the inclosed English Newspaper is sketched a debate in the House of Commons throwing light on the practice there with respect to filling military vacancies in certain cases. If I understand the sketch from a very slight perusal, the rule of promotion is not viewed as applicable to original vacancies. In the abstract it has always appeared to me desirable that the door to special merit should be widened as far as could possibly be reconciled with the general Rules of promotion. The inconveniency of a rigid adherence to this Rule gave birth to Brevets; and favors every permitted mode of Relaxing it, in order to do justice to superior capacity for public service.

The aspect of things at Washington to which you allude could escape the notice of no one who ever looks into the Newspapers. The only effect of a political rivalry among the members of the Cabinet which I particularly anticipated & which I believe I mentioned once in conversation with you, was an increased disposition in each to cultivate the good will of the President. The object of such rivalry on & through the proceedings of Congress is to be ascribed I hope to a peculiarity and Combination of circumstances not likely often to recur in our Annals.¹

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1 Adams, Secretary of State, Crawford, Secretary of the Treasury, and Calhoun, Secretary of War, were candidates for the nomination to succeed Monroe and at enmity with each other.

I am afraid you are too sanguine in your inferences from the absence here of causes which have most engendered & embittered the spirit of party in former times & in other Countries. There seems to be a propensity in free Govts. which will always find or make subjects, on which human opinions & passions may be thrown into conflict. The most, perhaps that can be counted on, & that will be sufficient, is, that the occasions for party contests in such a Country & Govt. as ours, will be either so slight or so transient, as not to threaten any permanent

or dangerous consequences to the character & prosperity of the Republic. But I must not forget that I took up my pen merely to answer your two inquiries, and to remind you that you omitted to answer mine as to your intended movements after the release from your confinement at Washington.